

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 12-CR-0012 (PJS/SER)

Case No. 14-CV-3235 (PJS)

Plaintiff,

v.

ORDER

DEMETRIUS CHARLES EDWARD
DERDEN,

Defendant.

Demetrius C. Derden, pro se.

Demetrius Derden filed a motion under 28 U.S.C. § 2255 collaterally attacking his sentence for interference with commerce by robbery under the Hobbs Act, 18 U.S.C. § 1951(a). ECF No. 90. The Court denied the motion and declined to issue a certificate of appealability. ECF No. 93. Derden then moved under Fed. R. Civ. P. 59(e) to alter or amend the judgment denying his § 2255 motion. ECF No. 96. The Court denied that motion, too. ECF No. 97.

This matter is again before the Court on another Rule 59(e) motion filed by Derden. ECF No. 98. This motion comes more than 28 days after entry of the judgment that it seeks to alter or amend. It is thus untimely under Rule 59(e), and the Court lacks jurisdiction to consider it. *United States v. Mask of Ka-Nefer-Nefer*, 752 F.3d 737, 743 (8th Cir. 2014); *Reyher v. Champion Int'l Corp.*, 975 F.2d 483, 489 (8th Cir. 1992). To the extent that the motion could be construed as a motion for relief from judgment under Rule

60(b) (which may be filed up to a year later or “within a reasonable time,” depending on the basis, Fed. R. Civ. P. 60(c)(1)), the motion would offer no valid ground for relief.

The motion merely rehashes arguments that the Court has already rejected in its orders denying Derden’s § 2255 motion and his first postjudgment motion. Rule 60(b) is “not a vehicle for simple reargument on the merits.” *Arnold v. Wood*, 238 F.3d 992, 998 (8th Cir. 2001) (quoting *Broadway v. Norris*, 193 F.3d 987, 990 (8th Cir. 1999)). If Derden wishes to continue to litigate his claims, he should seek a certificate of appealability from the Eighth Circuit and not file additional motions with this Court.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Rule 59(e) motion of defendant Demetrius C. Derden [ECF No. 98] is DISMISSED FOR LACK OF JURISDICTION.

Dated: January 30, 2015

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge